

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA )  
 )  
 v. ) CRIMINAL NO. 04-10317-RCL  
 )  
 ANDREW LEWIS )

DEFENDANT'S ASSENTED-TO MOTION  
FOR LEAVE TO FILE MOTION TO SUPPRESS LATE

Defendant, Andrew Lewis, moves that this Court grant leave to file his Motion to Suppress, previously scheduled to be filed by September 6, 2005, on September 19, 2005.

As support for this Motion, the defendant through counsel states the following:

1. The defendant is charged with receipt of child pornography in violation of 18 U.S.C. 2252(a)(2). Conviction carries the possibility of a five-year minimum sentence pursuant to the statute.

2. At a status conference held on August 23, 2005, the Court set a deadline of September 6, 2005 to file the motion. The government requested, and was granted, three weeks to September 26, 2005 to respond.

3. Counsel for defendant was not able to file his Motion to Suppress and until this day. The Federal Defender Office generally, and undersigned counsel in particular, has recently been enduring an unusually high caseload. Moreover, after this Court set the deadlines for filing the motion, counsel became embroiled in an unexpectedly contentious sentencing hearing

before Judge Gertner in United States v. Carlos Ruben Rivera, No. 04-10192-NG.

4. Filing of the motion was further hampered by the death of defendant's father on August 31, 2005. Defendant, whose knowledge of the factual background underlying the motion was indispensable, was unavailable for a substantial period of time following his father's death.

5. Defendant's Motion to Suppress has been filed electronically this day.

6. The government requests a deadline of October 10, 2005 - three weeks hence - by which to reply to defendant's Motion. That deadline is well in advance of the November 2, 2005 evidentiary hearing previously scheduled by the Court. Thus, the parties agree that the hearing need not be rescheduled despite the late filing of defendant's Motion.

7. The Court has previously excluded the time up to and including November 2, 2005, the date of the evidentiary hearing.

8. The government assents to this motion.

ANDREW LEWIS,  
By His Attorney:

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